

1 AN ACT concerning price gouging.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by adding Section 2MM as follows:

6 (815 ILCS 505/2MM new)

7 Sec. 2MM. Prohibition against unconscionable prices.

8 (a) As used in this Section, "commodity" means any
9 goods, services, materials, merchandise, supplies, equipment,
10 resources, or other article of commerce and includes without
11 limitation food, water, ice, chemicals, petroleum products,
12 and lumber necessary for consumption or use as a direct
13 result of the emergency.

14 (b) Upon a declaration of a state of emergency by the
15 Governor, it is unlawful and a violation of Section 2 of this
16 Act for a person or her or his agent or employee to rent or
17 sell or offer to rent or sell at an unconscionable price
18 within the area for which the state of emergency is declared
19 any essential commodity including, but not limited to,
20 supplies, services, provisions, or equipment that is
21 necessary for consumption or use as a direct result of the
22 emergency. This prohibition remains in effect until the
23 declaration expires or is terminated.

24 (c) It is unlawful and a violation of Section 2 of this
25 Act for any person to impose unconscionable prices for the
26 rental or lease of any dwelling unit or self-storage facility
27 during a period of declared state of emergency.

28 (d) It is prima facie evidence that a price is
29 unconscionable if:

30 (1) the amount charged represents a gross disparity
31 between the price of the commodity or rental or lease of

1 any dwelling unit or self-storage facility that is the
2 subject of the offer or transaction and the average price
3 at which that commodity or dwelling unit or self-storage
4 facility was rented, leased, sold, or offered for rent or
5 sale in the usual course of business during the 30 days
6 immediately prior to the declaration of a state of
7 emergency, and the increase in the amount charged is not
8 attributable to additional costs incurred in connection
9 with the rental or sale of the commodity or rental or
10 lease of any dwelling unit or self-storage facility or
11 national or international market trends; or

12 (2) the amount charged grossly exceeds the average
13 price at which the same or similar commodity was readily
14 obtainable in the trade area during the 30 days
15 immediately prior to the declaration of a state of
16 emergency and the increase in the amount charged is not
17 attributable to additional costs incurred in connection
18 with the rental or sale of the commodity or rental or
19 lease of any dwelling unit or self-storage facility or
20 national or international market trends.

21 (e) A price increase approved by an appropriate
22 government agency shall not be a violation of this Section.

23 (f) This Section shall not apply to sales by growers,
24 producers, or processors of raw or processed food products,
25 except for retail sales of such products to the ultimate
26 consumer within the area of the declared state of emergency.

27 (g) Nothing in this Section shall be interpreted to
28 preempt the powers of local government except that the
29 evidentiary standards and defenses contained in this Section
30 shall be the only evidentiary standards and defenses used in
31 any ordinance adopted by local government to restrict price
32 gouging during a declared state of emergency.

33 (h) Section 10a of this Act notwithstanding, nothing in
34 this Section creates a private cause of action in favor of

1 any person damaged by a violation of this Section.